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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/573,752

01/25/2007

Dennis Brian Nielsen

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EXAMINER

ENSEY, BRIAN

ART UNIT

PAPER NUMBER

2614

MAIL DATE

DELIVERY MODE

04/24/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/573,752	NIELSEN, DENNIS BRIAN	
	Examiner	Art Unit	
	BRIAN ENSEY	2614	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 December 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-18 and 22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3-18 and 22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 March 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>11/14/08</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 3, 4, 8-14 and 22 are rejected under 35 U.S.C. 102(b) as being anticipated by Arndt et al. U.S. Patent No. 5,204,917.

Regarding claim 1, Arndt discloses an attachment means (80) for attaching a conductor (12) to a hearing aid (10) having a hearing aid housing with a hearing aid housing wall, said attachment means defining a sound conduit (tubular opening in 80 to allow sound from speaker 50 to transmit sound to conductor 12) and being adapted to be located partially in said hearing aid housing wall, so as to have a first part (44) located in said hearing aid housing wall and a second part (80) protruding through an aperture in said hearing aid housing wall, said first part comprises means for interlocking (See col. 4, lines 35-47) with the hearing aid housing in an assembled state thereof (See Figs. 1, 5-7 and col. 2, lines 51-57, col. 3, lines 7-52).

Regarding claim 3, Arndt further discloses said first part comprises means for interlocking (See col. 4, lines 35-47) with the hearing aid housing and a carrier (See col. 4, lines 53-57, grooves in rear wall 64 of attachment means 44 link with amplifier module 18 and battery module 18 creating a carrier unit) for electronics in the hearing aid in an assembled state thereof (See Figs. 1 and 2).

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Regarding claim 4, Arndt further discloses said second part is generally cylindrical and comprises a thread (80, See Fig. 5).

Regarding claim 8, Arndt discloses a hearing aid housing for a BTE hearing aid (10), said housing comprising a housing wall and an attachment means (80) for attaching a conductor (12), said attachment means defining a sound conduit (tubular opening in 80 to allow sound from speaker 50 to transmit sound to conductor 12) and being located partially in said hearing aid housing wall, so as to have a first part (44) located in said housing wall and a second part (80) protruding through an aperture in said hearing aid housing wall said attachment means having means for interlocking (See col. 4, lines 35-47) with the hearing aid housing in an assembled state thereof (See Figs. 1, 5-7 and col. 2, lines 51-57, col. 3, lines 7-52).

Regarding claim 9, Arndt further discloses said hearing aid housing wall comprises means for interlocking (See col. 4, lines 35-47) with said attachment means (See Figs. 1 and 2).

Regarding claim 10, Arndt further discloses said means for interlocking with said attachment means comprises a recess formed in said housing wall (See Fig. 1, and receiver is mounted in the housing, A recess in the housing must be present for seating the receiver and thus provide counter rotational resistance).

Regarding claim 11, Arndt further discloses said attachment means comprises means for interlocking (See col. 4, lines 35-47) with a carrier (See col. 4, lines 53-57, grooves in rear wall 64 of attachment means 44 link with amplifier module 18 and battery module 18 creating a carrier unit) for electronics in the hearing.

Regarding claim 12, Arndt discloses a BTE hearing aid (10) comprising a hearing aid housing with a housing wall and an attachment means for attaching a conductor (12), said

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attachment means comprising an interchangeable part having a first (44) and a second part (80), said second part protruding from said hearing aid housing through an aperture in said housing wall (See Figs. 4-7, col. 3, lines 48-52, one piece may be replaced by 4 pieces, i.e. interchangeable parts).

Regarding claim 13, Arndt further discloses said hearing aid and said attachment means comprise mutually interlocking means (tabs 40 interlock in slots 56) (See Figs. 4-7).

Regarding claim 14, Arndt further discloses said second part of said interchangeable part comprises a generally cylindrical surface with an external thread (80, See Fig. 4).

Regarding claim 22, Arndt discloses a hearing aid (10) having a hearing aid housing with a hearing aid housing wall (58), a conductor (12) and an attachment means (80) for attaching the conductor to the hearing aid, said attachment means defining a sound conduit (tubular opening in 80 to allow sound from speaker 50 to transmit sound to conductor 12) and being located partially in said hearing aid housing wall so as to have a first part (44) located in said hearing aid housing wall and a second part (80) protruding through an aperture in said hearing aid housing wall, said first part comprises means for interlocking (See col. 4, lines 35-47) with the hearing aid housing in an assembled state thereof (See Figs. 1, 5-7 and col. 2, lines 51-57, col. 3, lines 7-52).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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Claims 5-7 and 15-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Arndt in view of Vignini U.S. Patent No. 3,813,499.

Regarding claims 5-7, Arndt discloses an attachment means as claimed. Arndt does not expressly disclose said second part comprises a catch means, wherein said catch means comprises a barb and wherein said barb is circumferential. However, the use of a circumferential barb catch is well known in the art and Vignini discloses an attachment means (11) comprising a catch means, wherein said catch means comprises a barb and wherein said barb is circumferential (See Fig. 1 and col. 2, lines 2 – 38). Therefore, It would have been obvious to one of ordinary skill in the art at the time of the invention to replace the threaded attachment means of Arndt with barb attachment means as taught by Vignini for securely attaching a further variety of earhooks in addition to the multiple earhooks taught by Arndt.

Regarding claims 15-18, Arndt discloses an attachment means as claimed. Arndt does not expressly disclose said second part comprises a catch means, wherein said catch means comprises a barb, wherein said barb is circumferential and wherein said barb is located at the distal end of said second part. However, the use of a circumferential barb catch is well known in the art and Vignini discloses an attachment means (11) comprising a catch means, wherein said catch means comprises a barb, wherein said barb is circumferential and wherein said barb is located at the distal end of said second part (See Fig. 1 and col. 2, lines 2 – 38). Therefore, It would have been obvious to one of ordinary skill in the art at the time of the invention to replace the threaded attachment means of Arndt with barb attachment means as taught by Vignini for securely attaching a further variety of earhooks in addition to the multiple earhooks taught by Arndt.

Response to Arguments

Applicant's arguments with respect to claims 1 and 3-18 have been considered but are moot in view of the new ground(s) of rejection.

The addition of "a sound conduit" as a part of the attachment means changes the scope of the claims and requires a new search to be conducted. Therefore, this rejection is made Final.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to BRIAN ENSEY whose telephone number is (571)272-7496. The examiner can normally be reached on Monday - Friday 6:00 AM - 2:30 PM.

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Any response to this action should be mailed to:

Commissioner of Patents and Trademarks
P.O. Box 1450
Alexandria, Va. 22313-1450

Or faxed to:

(571) 273-8300, for formal communications intended for entry and for informal or draft communications, please label "PROPOSED" or "DRAFT".
Hand-delivered responses should be brought to:

Customer Service Window
Randolph Building
401 Dulany Street
Arlington, VA 22314

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Curtis Kuntz can be reached on 571-272-7499. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Brian Ensey/
Primary Examiner, Art Unit 2614
April 22, 2009